

APPEAL NO. 022009
FILED SEPTEMBER 12, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 17, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury to his knees on _____, and that the claimant had disability from January 19, 2002, through the date of the CCH.

The appellant (carrier) appealed, principally on a sufficiency of the evidence basis, citing evidence it believed supports its position. The claimant responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant was working inside a large concrete storm sewer pipe cutting pieces of exposed rebar, when some sparks ignited and burned the claimant's face, temporarily blinding him. At issue is whether the claimant injured his knees scrambling "to escape from inside the fiery pipe." There are contradictory accounts on how the claimant may have injured his knees (whether he hit his knees against the side of the concrete pipe, whether he injured his knees crawling out of the pipe, or whether he twisted his knees.) The carrier's principal point is that the claimant was only treated for the burns at the hospital emergency room (ER) and two ER reports make no mention of his knees. The claimant position is that he speaks primarily Spanish and the medical personnel treated only the obvious burns and vision problems. The claimant was treated for knee complaints a few days later. This issue boils down to one of credibility of the evidence and what evidence the hearing officer chose to believe.

The hearing officer found in the claimant's favor on both disputed issues and his determinations are supported by the evidence. The hearing officer is the sole judge of the weight and credibility to be given to the evidence and his determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JIM ADAMS, ATTORNEY
450 GEARS ROAD, SUITE 500
HOUSTON, TEXAS 77067.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Philip F. O'Neill
Appeals Judge